

2011 DRAFTING REQUEST

Bill

Received: **02/13/2012**

Received By: **mkunkel**

Wanted: **As time permits**

Companion to LRB:

For: **John Murtha (608) 266-7683**

By/Representing:

May Contact:

Drafter: **mkunkel**

Subject: **Public Util. - energy**

Addl. Drafters:

Extra Copies: **MES, EVM**

Submit via email: **YES**

Requester's email: **Rep.Murtha@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Municipal authority over setback distances for wind energy systems

Instructions:

Companion to LRB-2700

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|------------------------|-----------------------|----------------|------------------------|------------------------|-----------------|
| /? | mkunkel 02/13/2012 | csicilia 02/13/2012 | | _____ | | | |
| /1 | | | jmurphy 02/13/2012 | _____ | sbasford 02/13/2012 | sbasford 02/15/2012 | |

FE Sent For:

None

<END>

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| /? | mkunkel | | | | | | |
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12

FE Sent For:

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Kunkel, Mark

From: Schneider, Alicia
Sent: Monday, February 13, 2012 9:11 AM
To: Kunkel, Mark
Subject: FW: Co-sponsorship of LRB 2700/2 Local Government Control over Wind Turbine Setbacks Bill
Attachments: 11-27002.pdf

Mark Kunkel,

I would like to have an Assembly Companion bill written up for LRB 2700 which I attached below this email. I spoke with Sen. Lasee's office and they have given me permission. Thank you for your time.

Regards,

Alicia Schneider

Legislative Aide

Office Of State Representative John Murtha

(608) 266-7683

alicia.schneider@legis.wisconsin.gov

From: Sen.Lasee
Sent: Thursday, January 05, 2012 2:55 PM
To: *Legislative All Assembly; *Legislative All Senate
Cc: Kovach, Robert
Subject: Co-sponsorship of LRB 2700/2 Local Government Control over Wind Turbine Setbacks Bill

To: Legislative Colleagues

From: Senator Frank Lasee and Representative John Murtha

Re: Co-sponsorship of LRB 2700 Local Government Control over Wind Turbine Setbacks Bill

If you would like to co-sponsor this legislation please contact my office at 266-3512 by 3 p.m. on Friday, January 13th.

The purpose of this bill is to allow local governments to set wind turbine setback distances. Current law prohibits a city, town, village or country from creating setbacks that differ from the Public Service Commission rules.

Senator Lasee releases the following statement: "Local communities should have the right to create their own setback requirements. Why should bureaucrats in Madison make these determinations? They're not the ones living next to the turbines. Having a statewide standard for the setback of these 500 feet tall wind turbines doesn't take into account the local landscape and community. Local elected officials are most familiar with their area to set the correct setback distances and best represent their local constituents."

Representative Murtha adds, "There have been many concerns raised about wind farms all over the state of Wisconsin. This bill will finally give local communities the control they have been asking for when it comes to deciding what is right for their communities and families."

Following are statements of support for LRB 2700/2

Rick Stadelman, Executive Director of Wisconsin Towns Association stated, "Local governments are responsible for protecting the public health and welfare of their communities. Arbitrary state standards limiting setbacks and noise levels of wind turbines take away the authority of local officials to protect their community. One size does not fit all. This bill allows local officials to exercise local control to protect the interest of their community."

"In order for wind development to be good for Wisconsin, it must be done responsibly and not in a fashion that sacrifices the health of those families forced to live within these wind generation facilities. Good environmental policy starts with safeguarding Wisconsin residents and we thank Senator Lasee for submitting this Bill," said Steve Deslauriers, Wisconsin Citizens Coalition.

"Wind turbine siting must be done at the local level as the population varies greatly, county by county, township to township. It is our goal to protect families within our township. This bill gives us the authority to do that." Tom Kruse, chairman of West Kewaunee Township said.

Dave Hartke, chairman of Carlton Township: "Carlton Township supports LRB-2700 because it places the authority for wind turbine siting at the local level where it belongs. As town chairman, I am always concerned for the health and safety of our residents."

"We applaud Senator Lasee for introducing this bill." Erv Selk, representative of Coalition for Wisconsin Environmental Stewardship said. "We have long thought that the Public Service Commission setbacks were not adequate to protect the people that live near the Industrial Wind Turbines."

Analysis by the Legislative Reference Bureau

Under current law, the Public Service Commission (PSC), with the advice of the Wind Siting Council, must promulgate rules specifying the restrictions that a city, village, town, or county may impose on the installation or use of a "wind energy system," which is defined as equipment and associated facilities that convert and then store or transfer wind energy into usable forms of energy. The restrictions must satisfy certain conditions, including preserving or protecting the public health or safety and not significantly increasing the cost of a wind energy system or significantly decreasing its efficiency. In addition, the subject matter of the rules must include setback requirements and decommissioning, and may include other matters. Current law prohibits a city, village, town, or county from placing a restriction on the installation or use of a wind energy system that is more restrictive than the PSC's rules.

This bill creates an exception from this prohibition for setback requirements, as the bill allows a city, village, town, or county to impose a setback requirement that is more restrictive than the PSC's rules. The bill also prohibits the PSC, which has jurisdiction over a wind energy system with a capacity of 100 megawatts or more, from issuing a certificate of public convenience and necessity for such a wind energy system unless the system is consistent with any applicable setback requirement that is more restrictive than the PSC's rules.

Attached is a copy of LRB-2700/2 for your review.

If interested in co-sponsoring LRB 2700/2 please contact my office at 608-266-3512. You will be added to both the Assembly and Senate bill unless you indicate otherwise.

Rob Kovach
Chief of Staff
Office of State Senator Frank Lasee
608-266-3512



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2700/2

MDK:wlj&cjs:jf

7
days

NOTE

2011 SENATE BILL 392

Fodan

404211

2 MINUT
RUN

January 20, 2012 - Introduced by Senator LASEE, cosponsored by Representatives MURTHA, JACQUE, FRIDEMORE, LEMAHIEU, BIES, VAN ROY and KESTELL. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

SA

Gen Cat

- 1 AN ACT *to amend* 66.0401 (1m) (intro.), 66.0401 (4) (f) 1., 66.0401 (4) (g), 66.0401
- 2 (5) (a), 66.0401 (5) (d), 196.378 (4g) (b), 196.378 (4g) (c) 1., 196.491 (3) (d) (intro.)
- 3 and 196.491 (3) (dg); and *to create* 196.491 (1) (x) of the statutes; **relating to:**
- 4 setback requirements for wind energy systems.

Analysis by the Legislative Reference Bureau

Under current law, the Public Service Commission (PSC), with the advice of the Wind Siting Council, must promulgate rules specifying the restrictions that a city, village, town, or county may impose on the installation or use of a "wind energy system," which is defined as equipment and associated facilities that convert and then store or transfer wind energy into usable forms of energy. The restrictions must satisfy certain conditions, including preserving or protecting the public health or safety and not significantly increasing the cost of a wind energy system or significantly decreasing its efficiency. In addition, the subject matter of the rules must include setback requirements and decommissioning, and may include other matters. Current law prohibits a city, village, town, or county from placing a restriction on the installation or use of a wind energy system that is more restrictive than the PSC's rules.

This bill creates an exception from this prohibition for setback requirements, as the bill allows a city, village, town, or county to impose a setback requirement that is more restrictive than the PSC's rules. The bill also prohibits the PSC, which has jurisdiction over a wind energy system with a capacity of 100 megawatts or more, from issuing a certificate of public convenience and necessity for such a wind energy

SENATE BILL 392

system unless the system is consistent with any applicable setback requirement that is more restrictive than the PSC's rules.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0401 (1m) (intro.) of the statutes is amended to read:

2 66.0401 **(1m)** AUTHORITY TO RESTRICT SYSTEMS LIMITED. (intro.) ~~No~~ Except for
3 restrictions regarding setback requirements, no political subdivision may place any
4 restriction, either directly or in effect, on the installation or use of a wind energy
5 system that is more restrictive than the rules promulgated by the commission under
6 s. 196.378 (4g) (b). No political subdivision may place any restriction, either directly
7 or in effect, on the installation or use of a solar energy system, as defined in s. 13.48
8 (2) (h) 1. g., or a wind energy system, unless the restriction satisfies one of the
9 following conditions:

10 **SECTION 2.** 66.0401 (4) (f) 1. of the statutes is amended to read:

11 66.0401 **(4)** (f) 1. Except as provided in subd. 2., a political subdivision may not
12 deny or impose a restriction, except a restriction regarding setback requirements, on
13 an application for approval unless the political subdivision enacts an ordinance that
14 is no more restrictive than the rules the commission promulgates under s. 196.378
15 (4g) (b).

16 **SECTION 3.** 66.0401 (4) (g) of the statutes is amended to read:

17 66.0401 **(4)** (g) A political subdivision that chooses to regulate wind energy
18 systems shall enact an ordinance, subject to sub. (6) (b), that is no more restrictive
19 than the applicable standards established by the commission in rules promulgated
20 under s. 196.378 (4g). This paragraph does not apply to the regulation of setback
21 requirements for wind energy systems.

SENATE BILL 392

1 **SECTION 4.** 66.0401 (5) (a) of the statutes is amended to read:

2 66.0401 (5) (a) A decision of a political subdivision to determine that an
3 application is incomplete under sub. (4) (a) 1., or to approve, disapprove, or impose
4 a restriction upon a wind energy system, or an action of a political subdivision to
5 enforce a restriction on a wind energy system, may be appealed only as provided in
6 this subsection. This paragraph does not apply to a restriction regarding setback
7 requirements.

8 **SECTION 5.** 66.0401 (5) (d) of the statutes is amended to read:

9 66.0401 (5) (d) The commission may confine its review to the records it receives
10 from the political subdivision or, if it finds that additional information would be
11 relevant to its decision, expand the records it reviews. The commission shall issue
12 a decision within 90 days after the date on which it receives all of the records it
13 requests under par. (c), unless for good cause the commission extends this time
14 period in writing. If the commission determines that the political subdivision's
15 decision or enforcement action does not comply with the rules it promulgates under
16 s. 196.378 (4g) that are applicable or is otherwise unreasonable, the political
17 subdivision's decision shall be superseded by the commission's decision and the
18 commission may order an appropriate remedy.

19 **SECTION 6.** 196.378 (4g) (b) of the statutes is amended to read:

20 196.378 (4g) (b) The commission shall, with the advice of the wind siting
21 council, promulgate rules that specify the restrictions a political subdivision may
22 impose on the installation or use of a wind energy system consistent with the
23 conditions specified in s. 66.0401 (1m) (a) to (c). The subject matter of these rules
24 shall include setback requirements that provide reasonable protection from any
25 health effects, including health effects from noise and shadow flicker, associated with

SENATE BILL 392**SECTION 6**

1 wind energy systems. The subject matter of these rules shall also include
2 decommissioning and may include visual appearance, lighting, electrical
3 connections to the power grid, ~~setback distances~~, maximum audible sound levels,
4 shadow flicker, proper means of measuring noise, interference with radio, telephone,
5 or television signals, or other matters. ~~A~~ Except for a restriction regarding setback
6 requirements, a political subdivision may not place a restriction on the installation
7 or use of a wind energy system that is more restrictive than these rules.

8 **SECTION 7.** 196.378 (4g) (c) 1. of the statutes is amended to read:

9 196.378 **(4g)** (c) 1. Specify the information and documentation to be provided
10 in an application for approval to demonstrate that a proposed wind energy system
11 complies with rules promulgated under par. (b) or any applicable setback
12 requirement that is more restrictive than rules.

13 **SECTION 8.** 196.491 (1) (x) of the statutes is created to read:

14 196.491 **(1)** (x) "Wind energy system" has the meaning given in s. 66.0403 (1)
15 (m).

16 **SECTION 9.** 196.491 (3) (d) (intro.) of the statutes is amended to read:

17 196.491 **(3)** (d) (intro.) Except as provided under ~~par.~~ pars. (dg) and (e) and s.
18 196.493, the commission shall approve an application filed under par. (a) 1. for a
19 certificate of public convenience and necessity only if the commission determines all
20 of the following:

21 **SECTION 10.** 196.491 (3) (dg) of the statutes is amended to read:

22 196.491 **(3)** (dg) In making a determination under par. (d) that applies to a large
23 electric generating facility, if the large electric generating facility is a wind energy
24 system, ~~as defined in s. 66.0403 (1) (m),~~ the commission shall consider whether
25 installation or use of the facility is consistent with the standards specified in the

SENATE BILL 392

1 rules promulgated by the commission under s. 196.378 (4g) (b) or any applicable
2 setback requirement that is more restrictive than the rules. The commission may
3 not approve an application filed under par. (a) 1. for a wind energy system unless the
4 system is consistent with any applicable setback requirement that is more restrictive
5 than the rules.

SECTION 11. Initial applicability.

7 (1) The treatment of sections 66.0401 (1m) (intro.) and (4) (f) 1., 196.378 (4g)
8 (b) and (c) 1., and 196.491 (1) (x) and (3) (d) (intro.) and (dg) of the statutes first
9 applies to restrictions that a city, village, town, or county places on a wind energy
10 system on the effective date of this subsection.

11 (END)

d-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4092/1dn
MDK:.....

gis

— date —

Rep. Murtha: ✓

This is a companion bill to SB-392.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

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FROM THE
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MDK:cjs:jm

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